

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Edwin Keusey (34361) on 16 July 2008.

3. The application has been amended as follows:

In Claim 1, line 5, after "shroud" inserted --having a geometry matched to the mold insert's periphery--.

In Claim 1, lines 6-7, deleted "having a geometry matched to the mold's insert's periphery".

In Claim 1, line 10, after "optical carrier" inserted --at optical quality--.

Allowable Subject Matter

4. Claims 1-30 are allowed.

5. The following is an examiner's statement of reasons for allowance: The prior art does not teach or fairly suggest the claimed subject matter or provide any rationale for arriving at the claimed invention.

MPEP 2111.01(IV) states the following regarding an Applicant's entitlement to be his or her own lexicographer:

An applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary

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meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s). See *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (inventor may define specific terms used to describe invention, but must do so “with reasonable clarity, deliberateness, and precision” and, if done, must “set out his uncommon definition in some manner within the patent disclosure’ so as to give one of ordinary skill in the art notice of the change” in meaning) (quoting *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1387-88, 21 USPQ2d 1383, 1386 (Fed. Cir. 1992)). Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings”). Any special meaning assigned to a term “must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.” *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999) and MPEP § 2173.05(a). The specification should also be relied on for more than just explicit lexicography or clear disavowal of claim scope to determine the meaning of a claim term when applicant acts as his or her own lexicographer; the meaning of a particular claim term may be defined by implication, that is, according to the usage of the term in >the< context in the specification. See *Phillips v. AWH Corp.*, *415 F.3d 1303<, 75 USPQ2d 1321 (Fed. Cir. 2005) (en banc); and *Vitronics Corp. v. Conceptronic Inc.*, 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996). Compare *Merck & Co., Inc., v. Teva Pharms. USA, Inc.*, 395 F.3d 1364, 1370, 73 USPQ2d 1641, 1646 (Fed. Cir. 2005), where the court held that patentee failed to redefine the ordinary meaning of “about” to mean “exactly” in clear enough terms to justify the counterintuitive definition of “about.” (“When a patentee acts as his own lexicographer in redefining the meaning of particular claim terms away from their ordinary meaning, he must clearly express that intent in the written description.”). See also MPEP § 2173.05(a).

In the 2 March 2007 response, Applicants argued that a particular and explicit definition was provided for the term "optical quality" (3/2/07 Arguments, page 8), which refers to particular surface quality characteristics and relative curvature of the lens carrier. Additionally, in the 1 November 2007 response, Claim 1 was amended to recite that a "uniformly thick"

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optical carrier is produced (11/1/07 Arguments, page 8). These terms are defined on page 14 of the instant specification.

Additionally, the prior art does not teach or fairly suggest in combination the particular process, apparatus, and properties of the resulting article, namely a vented platform with a mold insert adjustably disposed through an aperture, clamping a shroud having a geometry matched to the mold insert's periphery over the heated sheet onto the vented platform, confining a low pressure air stream within the shroud with the vents being located between the aperture and the shroud, and deflecting the air stream from a path leading to the mold insert to thereby thermoform the sheet and produce a uniformly thick optical carrier at optical quality.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. DANIELS whose telephone number is (571)272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Matthew J. Daniels/

Primary Examiner, Art Unit 1791

7/21/08